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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition Nos. 8024 to 8026 of 1998

W.P.No. 8024 of 1998

1. Puttaswamygowda
2. Javaregowda @ B.Javarappa
3. Ramesha

All are sons of late Bobbayappa
@ Ningegowda, R/at Bandi Palya
Mysore

W.P.No.8025 of 1998

Eramma
W/o Late Lingegowda
@ Babbaregowda
S/o Kenchegowda
Bandipalya
Mysore

W.P.No.8026 of 1998

Ningegowda
S/o Javare Gowda
Bandi Palya
Mysore

.. PETITIONERS

(By Sri K.L.Manjunath, Advocate)

- Vs -

1. The Mysore Urban Development
Authority
Mysore
2. The Special Land Acquisition
Officer
Mysore Urban Development
Authority
Mysore

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3. The State of Karnataka
represented by its
Secretary to Government
Department of Housing and
Urban Development
M.S.Buildings
Bangalore

.. RESPONDENTS

(By Sri A.S.Mahesh, Government Advocate for
R-3 and Sri P.S.Manjunath, Advocate for R-1
and R-1)

These writ petitions are filed under
Articles 226 and 227 of the Constitution of
India praying to quash vide Annexure-F dt.
3.6.97 by R-2 so far as the petitioners
concerned and etc.

These petitions coming on for
preliminary hearing this day, the Court made
the following:

ORDER

Though these petitions are posted for
preliminary hearing with the consent of the
learned counsel appearing for the parties,
they are taken up for final hearing and
disposed of by this order.

2. The petitioners in these petitions
are the owners of various items of lands
situated at Bandipalya, Mysore Taluk, Mysore
District. In these petitions, they have
prayed for quashing the Notification dated
28th November 1996 issued under subsection (1)
of Section 17 of the Karnataka Urban
Development Authorities Act, 1987 and also the

WMT

declaration made under subsection (1) of Section 19 of the Act by means of Notification dated 3rd June 1997, a copy of which has been produced as Annexure-F.

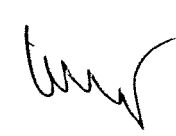
3. Sri Reddy, learned counsel for the petitioners in support of the prayer of the petitioners made three submissions. Firstly, he submitted that the impugned Notifications having been issued showing the name of the persons who are dead on the date of the issue of Notification under Section 17(1), the impugned Notifications are liable to be quashed. Secondly, he submitted that though the petitioners had filed their objections pursuant to the Notification issued under subsection (1) of Section 17 of the Act, the objection filed by the petitioners were not considered by the Authority as required under subsection (1) of Section 17 of the Act; and therefore the impugned Notification-Annexure-F is liable to be quashed. Finally, he submitted that since the necessary approval as required under Section 18(3) of the Act was not granted by the Government, the



Notification-Annexure-F issued under subsection (1) of Section 19 of the Act is liable to be quashed.

4. Sri Manjunath, learned counsel for the 1st respondent on the basis of the records fairly admitted that there is no sanction accorded by the Government as provided under Section 18(3) of the Act. He is also unable to dispute on the basis of the records that the objections filed by the petitioners were not considered by the Authority as required under subsection (1) of Section 18 of the Act. However, he submits that it was considered by the Land Acquisition Officer and the Commissioner of the 1st respondent.

5. In the light of the submissions made by the learned counsel for the petitioners, I am of the view that the petitioners are entitled for the relief in these petitions. As observed by me earlier, it is not in dispute that the sanction as required under Section 18(3) of the Act has not been granted. However, in the impugned Notification-Annexure-F the approval given by the State Level Co-ordination Committee for



the project under the Asian Development Bank has been referred to. Since it is not in dispute that sanction as required under Section 18(3) has not been accorded and the final Notification-Annexure-F is liable to be quashed on the said short ground. Further, it is also not in dispute that the 1st respondent-Authority has not considered the objections of the petitioners as required under subsection (1) of Section 18 of the Act. The Notification-Annexure-F is also liable to be quashed on that ground also. In the case of AMEER KHAN VS. STATE OF KARNATAKA & OTHERS made in Writ Petition Nos.10603 to 10604 of 1997 disposed of on 11th February 1998, I have taken the view that the objections filed by the owners of the land who are sought to be deprived of the lands are required to be considered by the Authority and non-consideration of the objections filed by the Authority vitiates the declaration issued under Section 19(1) of the Act. Therefore, I am of the view that the impugned Notification-Annexure-F is liable to be quashed. In the light of the discussion made above, the Notification dated 3rd June 1997, issued under Subsection (1) of Section 19 of



the Act, a copy of which has been produced as Annexure-F so far as the lands of the petitioners are concerned is hereby quashed. The 1st respondent-Authority is directed to consider the objections filed by the petitioners afresh and pass appropriate orders in accordance with law and in the light of the observations made above. The respondents are reserved liberty to proceed with the acquisition proceedings from the stage at which objections were filed by the parties. These petitions are accordingly allowed, rule is issued and made absolute.

6. Sri A.S.Mahesh, learned Government Advocate is given four weeks' time to file his memo of appearance.



pmg/

Sd/-
JUDGE